

JUN 19 1996

STATE OF ARIZONA
DEPARTMENT OF INSURANCE
DEPT. OF INSURANCE
BY CWB

In the Matter of) Docket No. 96A-098
HOUSTON GENERAL INSURANCE COMPANY) CONSENT ORDER
Respondent.)
_____)

Examiners for the Department of Insurance (the "Department") conducted a market conduct examination of Houston General Insurance Company ("Houston General"), NAIC #38849. The Report of the Examination of the Market Conduct Affairs of Houston General (the "Report") alleges that Houston General has violated A.R.S. §§ 20-259.01, 20-385, 20-400.01, 20-448, 20-451, 20-462, 20-1673, 20-1676 and 20-1677, and Arizona Administrative Code Rule ("A.A.C. R") 20-6-801, formerly A.A.C.R4-14-801.

Houston General wishes to resolve this matter without formal adjudicative proceedings and agrees to this Consent Order.

The Director enters the following Findings of Fact and Conclusions of Law, which are neither admitted nor denied by Houston General, and the following Order.

FINDINGS OF FACT

1. Houston General is authorized to transact property and casualty insurance (including workers' compensation) in Arizona pursuant to a Certificate of Authority issued by the Director.

2. The Examiners were authorized by the Director to conduct an examination of Houston General. The on-site examination was concluded as on June 3, 1994.

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1 3. The Examiners found that Houston General paid
2 commissions for the sale of insurance products to an entity that
3 did not hold an agent or broker license issued by the Director.

4 4. The Examiners reviewed 691 commercial package policies
5 issued by Houston General from January 30, 1990 through March
6 31, 1994.

7 5. In determining policy premiums, Houston deviated from
8 its filed rates and rules in 430 instances, by:

9 a. exceeding its filed Individual Risk Premium
10 Modification ("IRPM") maximum on 16 policies. As a result,
11 Houston General overcharged four insureds a total of \$1,060 and
12 undercharged insureds a total of \$3,796. No premium differences
13 resulted in three of the policies reviewed.

14 b. exceeding its filed individual risk
15 characteristic maximum on 47 policies.

16 c. failing to include any documentation of the
17 reasons for its deletion of IRPM credits from 14 policies.

18 d. applying a total of eight unfiled modifiers to
19 the rating of three CP policies.

20 e. applying unfiled factor in rating 123 policies
21 (19.0%), for a total of 131 violations. On six of these policy
22 files, Houston General knowingly altered the premium worksheets
23 by changing the minimum premium, modification factor or actual
24 line of coverage premium. As a result, Houston General
25 overcharged 96 insureds a total of \$7,911, and undercharged 27
26 insureds a total of \$19,541.

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1 f. applied an unfiled minimum premium to 69 policy
2 files. As a result, Houston General overcharged 67 insureds a
3 total of \$20,481 and undercharged 2 insureds a total of \$322.

4 g. used rates other than those filed with the
5 Department in computing the premiums of 18 policy files. As a
6 result, Houston General overcharged 6 insureds a total of \$335
7 and undercharged 12 insureds a total of \$2,134.

8 h. used incorrect construction classifications in
9 rating 14 policy files. As a result, Houston General
10 overcharged 11 insureds a total of \$3,401 and undercharged 2
11 insureds a total of \$625. One policy was cancelled, and no
12 charge was incurred by the applicant.

13 i. used incorrect protection classification codes in
14 rating 13 policy files. As a result, Houston General
15 overcharged nine insureds a total of \$3,477.

16 j. used incorrect territory classifications in
17 rating 29 policy files. As a result, Houston General
18 overcharged 8 insureds a total of \$1,384 and undercharged 21
19 insureds a total of \$4,201.

20 k. failed to consider 50 eligible applicants for its
21 IRPM and/or schedule rating plans.

22 l. applied schedule credits to one property policy,
23 and applied the IRPM to four liability policies.

24 m. stated an unfiled deductible in one policy.

25 n. used incorrect business classification codes on
26 two policies, and applied an unfiled modifier to one of the
27 policies. As a result, Houston General overcharged one insured
28 \$95 and undercharged one insured \$931.

1 o. stating in two files that the policies had
2 minimum earned premiums of 100%, rather than the filed 25%
3 minimum earned premium.

4 p. knowingly altering the premium worksheets of four
5 additional policy files by changing the minimum premium,
6 modification factor or actual line of coverage premium. As a
7 result, Houston General undercharged the insureds a total of
8 \$1,159.

9 6. Houston General failed to notify 94 insureds of
10 premium increase or policy changes at least 60 days in advance
11 of the effective date of each change.

12 7. Houston General failed to obtain the signed
13 underinsured motorist coverage rejection form for 12 policy
14 files (1.7%).

15 8. The Examiners reviewed 74 policy files with effective
16 dates of cancellation or nonrenewal from March 3, 1990 through
17 December 14, 1993. Of these, Houston General:

18 a. failed to send 30 notices of nonrenewal by
19 certified mail.

20 b. cancelled two policy files in effect for more
21 than 60 days for reasons other than those permitted by statute.

22 9. The Examiners reviewed 191 claim files with dates of
23 loss from May 8, 1990 through December 3, 1993. Of these,
24 Houston General:

25 a. paid two claims more than 30 days after the
26 receipt of an acceptable proof of loss which contained all
27 information necessary for claim adjudication, and did not pay
28 interest on the claims.

1 b. failed to notify one claimant of the acceptance
2 or denial of the claim within 15 days of receipt.

3 CONCLUSIONS OF LAW

4 1. By making adjustments to full manual premiums
5 developed for commercial policies without adequate justification
6 for the adjustments, Houston General violated A.R.S. §
7 20-400.01(B).

8 2. By calculating commercial policy premiums other than
9 on the basis of its rates and rules filed pursuant to A.R.S. §
10 20-385(A), and by developing premiums for commercial risks on
11 the basis of adjustments to full manual premium made without
12 adequate justification, Houston General violated A.R.S. §
13 20-400.01(A).

14 3. By failing to file rates and supplementary rating
15 information used to determine premiums of commercial package
16 policies, Houston General violated A.R.S. § 20-385(A).

17 4. By failing to send notices of premium increase, change
18 in deductible or substantial reduction in coverage of commercial
19 policies at least sixty (60) days before their expiration date,
20 Houston General violated A.R.S. § 20-1677(A).

21 5. By failing to obtain signed underinsured motorist
22 coverage rejection forms from each insured rejecting
23 underinsured motorist coverage, Houston General violated A.R.S.
24 § 20-259.01(B).

25 6. By intentionally reducing premiums based on filed
26 rates to reach target premiums, Houston General gave discounts
27 to the insureds as inducements to insurance, in violation of
28 A.R.S. § 20-451.

1 7. By making unfair discrimination in favor of particular
2 persons, or between insureds or subjects of insurance having
3 substantially like insuring, risk and exposure factors, or
4 expense elements, in the rate or amount of premium charged
5 therefor, Houston General violated A.R.S. § 20-448(C).

6 8. By failing to send notices of nonrenewal by certified
7 mail, Houston General violated A.R.S. § 20-1676(B).

8 9. By cancelling policies which had been in effect for
9 more than 60 days for reasons other than those permitted by
10 statute, Houston General violated A.R.S. § 20-1673(B).

11 10. Houston General violated A.R.S. § 20-462(A) by failing
12 to pay interest on all first party claims not paid within thirty
13 (30) days of the receipt of an acceptable proof of loss which
14 contained all information necessary for claim adjudication.

15 11. Houston General violated A.A.C.R20-6-801(G)(1)(b) by
16 failing to accept or deny a first-party claim within 15 working
17 days of receipt of a properly executed proof of loss.

18 12. Grounds exist for the entry of the provisions of the
19 following Order.

20 ORDER

21 Houston General having admitted the jurisdiction of the
22 Director to enter this Order, having waived the Notice of
23 Hearing, having consented to the entry of this Order, and there
24 being no just reason for delay:

25 IT IS HEREBY ORDERED THAT:

26 1. Houston General shall cease and desist from:

27 a. failing to document the facts in support of
28 adjustments to full manual premiums;

1 b. issuing policies at premiums other than those
2 based determined upon the basis of its filed rates and rules;

3 c. failing to mail notices of premium increase or
4 policy change to insureds at least 60 days prior to the
5 effective date of any premium increase or policy change.

6 d. failing to mail notices of nonrenewal to insureds
7 by certified mail.

8 2. Within ninety (90) days of this Order's filed date,
9 Houston General shall submit to the Director written action
10 plans to monitor Arizona issued policies to ensure that:

11 a. only rates, rating plans and rating rules which
12 have been filed with the ADOI by Houston General or on its
13 behalf are used.

14 b. policy worksheets are prepared and retained in
15 policy files.

16 c. all endorsements issued with policies are filed
17 with the Department.

18 d. the Arizona Cancellation Endorsement is issued
19 with all commercial policies.

20 e. facts are documented to support any adjustment to
21 full manual premiums.

22 f. all insureds whose policies are to be nonrenewed
23 are sent notices of nonrenewal at least 60 days in advance of
24 the effective date of the nonrenewal.

25 g. all insureds whose policies are subject to
26 premium increase or policy change are sent notices of premium
27 increase or policy change at least 60 days in advance of the
28 effective date of the premium increase or policy change.

1 3. Within ninety (90) days of the filed date of this
2 Order, Houston General shall reimburse the 98 policyholders
3 listed in Exhibit A of this Order, for net premium overcharges
4 totalling \$37,329.00 plus interest at the rate of ten percent
5 (10%) per annum calculated from the date paid by the insured to
6 the date of repayment to the insured.

7 4. Within ninety (90) days of the filed date of this
8 Order, Houston General pay the claimants of Claims #02108611 and
9 02134069 the amounts of \$1.50 and \$99.84, respectively, as
10 interest at the rate of ten percent per annum on the amounts of
11 the claims not paid within 30 days after receipt of an
12 acceptable proof of loss by the insurer which contains all
13 information necessary for claim adjudication.

14 5. All payments made pursuant to paragraphs 3 and 4 above
15 shall be accompanied by a letter acceptable to the Director. A
16 list of payments, giving the name and address of each party
17 paid, the amount of the overcharge, the amount of interest paid,
18 and the date of payment, shall be furnished to the Market
19 Conduct Examinations Division of the ADOI within 100 days of the
20 filed date of this Order.

21 6. The Department shall be permitted, through authorized
22 representatives, to verify that Houston General has fully
23 complied with all requirements of this Order.

24 7. Houston General shall pay a civil penalty of \$43,000
25 to the Director for transmission to the State Treasurer for
26 deposit in the State General Fund in accordance with A.R.S.
27 §20-220(B). Said \$43,000 shall be provided to the Market
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1 Conduct Examinations Division of the Department on or before May
2 15, 1996.

3 8. The May 12, 1994 Report of Examination, and any
4 objections to the Report filed by Houston General, shall be
5 filed with the Department after issuance of this Order.

6 DATED at Phoenix, Arizona this 19th day of June, 1996.

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9 Chris Herstam
10 Director of Insurance

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2 CONSENT TO ORDER

3 1. Respondent, Houston General Insurance Company, has
4 reviewed the attached Consent Order.

5 2. Respondent is aware of its right to a hearing at which
6 hearing it may be represented by counsel, present evidence and
7 cross-examine witnesses. Respondent has irrevocably waived its
8 right both to demand a public hearing and to seek judicial
9 review of this Order.

10 3. Respondent admits the jurisdiction of the Director of
11 Insurance, State of Arizona, and consent to the entry of this
12 Consent Order.

13 4. Respondent states that no promise of any kind or
14 nature whatsoever was made to it to induce it to enter into this
15 Order and that it has entered into this Order voluntarily.

16 5. Respondent acknowledges that the acceptance of this
17 Order by the Director of Insurance, State of Arizona, is
18 solely to settle this matter against it and
19 does not preclude any other agency or officer of this state or
20 subdivision thereof from instituting other civil or criminal
21 proceedings as may be appropriate now or in the future.

22 6. Richard L. Brown, who holds the office
23 of President of Houston General Insurance
24 Company, is authorized to enter into this Order for and on its
25 behalf.

26 HOUSTON GENERAL INSURANCE COMPANY

27 By Richard L. Brown

28 5/30/96
(Date)

1 COPY of the foregoing mailed/delivered
2 this 19th day of June , 1996, to:

3 Charles R. Cohen
Deputy Director
4 Gregory Y. Harris
Executive Assistant Director
5 Erin H. Klug
Chief Market Conduct Examiner
6 Saul R. Saulson
Examinations Supervisor
7 Market Conduct Examinations Division
Mary Butterfield
8 Assistant Director
Life & Health Division
9 Deloris E. Williamson
Assistant Director
10 Rates & Regulations Division
Gary Torticill
11 Assistant Director and Chief Financial Examiner
Corporate & Financial Affairs Division
12 Cathy O'Neil
Assistant Director
13 Consumer Services Division
John Gagne
14 Assistant Director
Investigations Division
15 John King
Fraud Unit Chief
16 Dean Ehler
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17 Property and Casualty Section

18 DEPARTMENT OF INSURANCE
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P.O. Box 2932
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23 *Carney W. Buxton*
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25
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27
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